

**These charges are only allegations which  
may be contested by the licensee in an  
Administrative hearing.**

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
WON YI, M.D.

NOTICE  
OF  
HEARING

TO: WON YI, M.D.



PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230 and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on September 17 and 18, 2018 at 10:00 a.m., at the Offices of the New York State Department of Health, 90 Church Street, 4th Floor New York, NY 10007 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel who shall be an attorney admitted to practice in New York state. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents, and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

YOU ARE HEREBY ADVISED THAT THE ATTACHED CHARGES WILL BE MADE PUBLIC FIVE BUSINESS DAYS AFTER THEY ARE SERVED.

Department attorney: Initial here                     

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Riverview Center, 150 Broadway - Suite 510, Albany, NY 12204-2719, ATTENTION: HON. JAMES HORAN, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication"), (Telephone: (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law §230(10)(c), you shall file a written answer to each of the charges and allegations in the Statement of Charges not less than ten days prior to the date of the hearing. Any charge or allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person. Pursuant to the terms of N.Y. State Admin. Proc. Act §401 and 10 N.Y.C.R.R. §51.8(b), the Petitioner

hereby demands disclosure of the evidence that the Respondent intends to introduce at the hearing, including the names of witnesses, a list of and copies of documentary evidence and a description of physical or other evidence which cannot be photocopied.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the Administrative Review Board for Professional Medical Conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION  
THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW  
YORK STATE BE REVOKED OR SUSPENDED, AND/OR  
THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS  
SET OUT IN NEW YORK PUBLIC HEALTH LAW §§230-a.  
YOU ARE URGED TO OBTAIN AN ATTORNEY TO  
REPRESENT YOU IN THIS MATTER.

DATE: August 6, 2018  
Albany, New York

  
Michael A. Hiser, Esq.  
Deputy Counsel  
Bureau of Professional Medical Conduct

Inquiries should be directed to:  
Ian H. Silverman, Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower, Rm 2512  
Albany, New York 12237  
(518)473-4282

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
  
OF  
  
WON YI, M.D.

STATEMENT  
  
OF  
  
CHARGES

WON YI, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 20, 2006 by the issuance of license number 240628 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. Respondent provided medical care to Patient A (each patient is identified in the attached Appendix A), a forty-three-year-old female patient, at Respondent's offices at 45 Spindrift Drive, Williamsville, NY 14221; 2950 Elmwood Avenue, Kenmore, NY 14217; 810 Davison Road, Lockport, NY 14094; and/or 6932 Williams Road #1400, Niagara Falls, NY 14304 at various times from on or about September 13, 2012, to on or about December 20, 2012, when Patient A expired. Respondent's medical care of Patient A deviated from accepted standards of care as follows:

1. Respondent, from September 18, 2012 to November 1, 2012, administered an excessive course of whole brain radiotherapy to Patient A's dominant right frontal lobe lesion, contrary to medical indications and/or without documenting such indication.
2. Respondent's treatment plan, despite the fact that Patient A previously was treated with radiotherapy, failed to account for such prior doses of radiotherapy,

and thus exceeded appropriate tissue tolerances, contrary to medical indication and/or without documenting such indication.

3. Respondent, contrary to medical indication and/or without documenting such indication, failed to adequately account for available radiographic findings from the March 2012 and August 2012 MRIs in planning for radiotherapy.

B. Respondent provided medical care to Patient B, a seventy-two-year-old male patient, at Respondent's offices at 45 Spindrift Drive, Williamsville, NY 14221; 2950 Elmwood Avenue, Kenmore, NY 14217; 810 Davison Road, Lockport, NY 14094; and/or 6932 Williams Road #1400, Niagara Falls, NY 14304 at various times from on or about February 9, 2009 to on or about March 14, 2012, when Patient B expired. Respondent's medical care of Patient B deviated from accepted standards of care as follows:

1. Respondent treated Patient B with prostate radiotherapy from February 12, 2009 to May 20, 2009, without adequate medical indication that he was symptomatic and or without documenting such adequate medical indication.
2. Respondent, contrary to medical indication and/or without documenting such indication, administered to Patient B multiple courses of radiotherapy that exceeded commonly prescribed palliative doses for metastatic disease and/or exceeded conventional daily fractionation schema.
3. Respondent, contrary to medical indication and/or without documenting such indication, failed to consider alternative treatment strategies, even as Patient B's condition declined throughout the series of treatment courses.
4. Respondent, without adequate medical indication and/or without documenting such adequate medical indication, treated Patient B's right jaw with radiotherapy, from August 26, 2011 to September 26, 2011, despite lacking clear radiographic evidence that Patient B was even experiencing metastatic disease at this site.

5. Respondent's treatment plan, despite the fact that Patient B previously was treated with radiotherapy, failed to account for such prior doses of radiotherapy, and thus exceeded appropriate tissue tolerances, contrary to medical indication and/or without documenting such indication.

C. Respondent provided medical care to Patient C, a sixty-four-year-old male patient, at Respondent's offices at 45 Spindrift Drive, Williamsville, NY 14221; 2950 Elmwood Avenue, Kenmore, NY 14217; 810 Davison Road, Lockport, NY 14094; and/or 6932 Williams Road #1400, Niagara Falls, NY 14304 at various times from on or about April 6, 2012 to on or about June 6, 2013, when Patient C expired. Respondent's medical care of Patient C deviated from accepted standards of care as follows:

1. Respondent, contrary to medical indication and/or without documenting such medical indication, introduced radiotherapy almost immediately after Patient C began therapy with androgen blockade.
2. Respondent, contrary to medical indication and/or without documenting such medical indication, failed to refer Patient C to a medical oncologist upon noticing Patient C's rising PSA.
3. Respondent, contrary to medical indication and/or without documenting such medical indication, failed to consider alternative treatment strategies, even as Patient C's condition declined throughout the series of treatment courses.
4. Respondent, contrary to medical indication and/or without documenting such indication, administered to Patient C multiple courses of radiotherapy that exceeded commonly prescribed palliative doses for metastatic disease and/or exceeded conventional daily fractionation schema.
5. Respondent's treatment plan, despite the fact that Patient C previously was treated with radiotherapy, failed to account for such prior doses of radiotherapy, and thus exceeded appropriate tissue tolerances, contrary to medical indication and/or without documenting such indication.

6. Respondent, without adequate medical indication and/or without documenting such medical indication, delivered radiotherapy for metastatic disease to an asymptomatic site.

D. Respondent provided medical care to Patient D, a forty-six-year-old male patient, at Respondent's offices at 45 Spindrift Drive, Williamsville, NY 14221; 2950 Elmwood Avenue, Kenmore, NY 14217; 810 Davison Road, Lockport, NY 14094; and/or 6932 Williams Road #1400, Niagara Falls, NY 14304 at various times from on or about January 20, 2012 to on or about May 22, 2013. Respondent's medical care of Patient D deviated from accepted standards of care as follows:

1. Respondent's treatment plan, despite the fact that Patient D previously was treated with radiotherapy, failed to account for such prior doses of radiotherapy, and thus exceeded appropriate tissue tolerances, contrary to medical indication and/or without documenting such indication.

E. Respondent provided medical care to Patient E, a forty-three-year-old female patient, at Respondent's office at 45 Spindrift Drive, Williamsville, NY 14221; 2950 Elmwood Avenue, Kenmore, NY 14217; 810 Davison Road, Lockport, NY 14094; and/or 6932 Williams Road #1400, Niagara Falls, NY 14304 at various times from on or about October 4, 2012 to on or about February 23, 2013, when Patient E expired. Respondent's medical care of Patient E deviated from accepted standards of care as follows:

1. Respondent, without adequate medical indication and/or without documenting such medical indication, treated Patient E's rectal primary and liver from October 9, 2012 to November 9, 2012, despite the fact that she was initially asymptomatic.

2. Respondent, without adequate medical indication and/or without documenting such medical indication, treated Patient E to a second course of radiotherapy to her liver from February 4, 2013 to February 15, 2013, despite the fact that Patient E presented with no clinical evidence of impaired liver function.
3. Respondent, contrary to medical indication and/or without documenting such indication, administered to Patient E multiple courses of radiotherapy that exceeded commonly prescribed palliative doses for metastatic disease and/or exceeded conventional daily fractionation schema.
4. Respondent, contrary to medical indication and/or without documenting such medical indication, failed to consider alternative treatment strategies, even as Patient E's condition declined throughout the series of treatment courses.

F. Respondent provided medical care to Patient F, a sixty-two-year-old male patient, at Respondent's office at 45 Spindrift Drive, Williamsville, NY 14221; 2950 Elmwood Avenue, Kenmore, NY 14217; 810 Davison Road, Lockport, NY 14094; and/or 6932 Williams Road #1400, Niagara Falls, NY 14304 at various times from on or about February 16, 2012 to on or about May 20, 2013, when Patient F expired.

Respondent's medical care of Patient F deviated from accepted standards of care as follows:

1. Respondent, contrary to medical indication and/or without documenting such indication, administered to Patient F multiple courses of radiotherapy that exceeded commonly prescribed palliative doses for metastatic disease and/or exceeded conventional daily fractionation schema.
2. Respondent's treatment plan, despite the fact that Patient F previously was treated with radiotherapy, failed to account for such prior doses of radiotherapy, and thus exceeded appropriate tissue tolerances, contrary to medical indication and/or without documenting such indication.

3. Respondent, contrary to medical indication failed to comprehensively stage Patient F's disease and to determine what the goal of the therapy was and/or failed to document what the goal of the therapy was.

G. Respondent provided medical care to Patient G, a twenty-seven-year-old male patient, at Respondent's office at 45 Spindrift Drive, Williamsville, NY 14221; 2950 Elmwood Avenue, Kenmore, NY 14217; 810 Davison Road, Lockport, NY 14094; and/or 6932 Williams Road #1400, Niagara Falls, NY 14304 at various times from on or about May 11, 2011 to on or about March 14, 2012, when Patient G expired.

Respondent's medical care of Patient G deviated from accepted standards of care as follows:

1. Respondent, contrary to medical indication failed to comprehensively stage Patient G's disease and to determine what the goal of the therapy was and/or failed to document what the goal of the therapy was.
2. Respondent's treatment plan, despite the fact that Patient previously was treated with radiotherapy, failed to account for such prior doses of radiotherapy, and thus exceeded appropriate tissue tolerances, contrary to medical indication and/or without documenting such indication.
3. Respondent, contrary to medical indication and/or without documenting such indication, administered to Patient G multiple courses of radiotherapy that exceeded commonly prescribed palliative doses for metastatic disease and/or exceeded conventional daily fractionation schema.

**SPECIFICATION OF CHARGES****FIRST THROUGH SEVENTH SPECIFICATION****GROSS NEGLIGENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

1. A and A1, A and A2, and/or A and A3;
2. B and B1, B and B2, B and B3, B and B4, and/or B and B5;
3. C and C1, C and C2 and C and C3, C and C4, C and C5, and/or C and C6;
4. D and D1;
5. E and E1, E and E2, E and E3, and/or E and E4;
6. F and F1, F and F2, and/or F and F3; and/or
7. G and G1, G and G2 and/or G and G3.

**EIGHTH THROUGH FOURTEENTH SPECIFICATION****GROSS INCOMPETENCE**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

8. A and A1, A and A2, and/or A and A3;
9. B and B1, B and B2, B and B3, B and B4, and/or B and B5;

10. C and C1, C and C2 and C and C3, C and C4, C and C5, and/or C and C6;
11. D and D1;
12. E and E1, E and E2, E and E3, and/or E and E4;
13. F and F1, F and F2, and/or F and F3; and/or
14. G and G1, G and G2 and/or G and G3.

### **FIFTEENTH SPECIFICATION**

#### **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

15. A and A1, A and A2, A and A3, B and B1, B and B2, B and B3, B and B4, and B and B5, C and C1, C and C2 and C and C3, C and C4, C and C5, C and C6, D and D1, E and E1, E and E2, E and E3, E and E4, F and F1, F and F2, F and F3, G and G1, G and G2 and/or G and G3.

### **SIXTEENTH SPECIFICATION**

#### **INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of:

16. A and A1, A and A2, A and A3, B and B1, B and B2, B and B3, B and B4, and B and B5, C and C1, C and C2 and C and C3, C and C4, C and C5, C and C6,

D and D1, E and E1, E and E2, E and E3, E and E4, F and F1, F and F2, F and F3, G and G1, G and G2 and/or G and G3.

**SEVENTEENTH SPECIFICATION**

**FAILURE TO MAINTAIN RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, as alleged in the facts of:

17. A and A1, A and A2, A and A3, B and B1, B and B2, B and B3, B and B4, and B and B5, C and C1, C and C2 and C and C3, C and C4, C and C5, C and C6, D and D1, E and E1, E and E2, E and E3, E and E4, F and F1, F and F2, F and F3, G and G1, G and G2 and/or G and G3.

DATE: August 6, 2018  
Albany, New York



Michael A. Hiser, Esq.  
Deputy Counsel  
Bureau of Professional Medical Conduct